

1st Session, 36th Parliament,
46 Elizabeth II, 1997

The House of Commons of Canada

BILL C-284

An Act to amend the Criminal Records Act and the Canadian Human Rights Act (offences against children)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

R.S., c. C-47; R.S., c. 1 (4th Supp.); 1992,
c. 22; 1995, cc. 22, 39, 42; 1997, c. 17

CRIMINAL RECORDS ACT

Preamble

1. The *Criminal Records Act* is amended by replacing the enacting phrase by the following:

Whereas there are certain circumstances in which it may be appropriate to grant a pardon to a person who has been of good behaviour following a conviction for a criminal offence and a period following the completion of the sentence;

Whereas, if a person has been granted a pardon for an offence, the record of that offence should be kept separate from other records and access thereto should be given only in cases where the public interest overrides the privacy of the record; and

Whereas access to the record of an offence in respect of which a pardon has been granted should be available to the Royal Canadian Mounted Police in connection with law enforcement, and to those responsible for the care of children to assist in reviewing applications for positions of trust regarding children;

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Those responsible for children

2. Section 6 of the Act is amended by adding the following after subsection (1):

(1.1) The Minister shall disclose a record of a sexual offence against a child in respect of which a pardon has been granted to a person requesting information on the criminal history of an applicant mentioned in paragraph (b), if the Minister is satisfied that

(a) the person is responsible for or represents an individual, organization or group who is responsible for the welfare of one or more children;

(b) the record is to be considered by the person, individual, organization or group in connection with the review of an application for a position in which the applicant would be placed in a position of trust involving the child or children; and

(c) the Minister has received an undertaking in writing, in a form prescribed by the Minister, from the person, individual, organization or group, as the Minister may require, that the record will be used only by the person, individual, organization or group in connection with the review referred to in paragraph (b) and will not be disclosed to any other

person.

Notice to applicant

(1.2) When the Minister discloses a record pursuant to subsection (1.1), the Minister shall give notice of the disclosure to the applicant in writing, to the last address of the applicant known to the Minister, stating to whom the disclosure was made and what information was disclosed.

Offence and penalty

(1.3) Any one who discloses or uses a record in breach of an undertaking made pursuant to paragraph (1.1)(c) is guilty of an offence and liable to a fine of not less than one thousand dollars and not more than fifty thousand dollars if the accused is an employer, and not more than five thousand dollars in any other case, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

R.S., c. H-6; R.S., c. 31 (1st Supp.), c. 32 (2nd Supp.); 1992, c. 22; 1993, c. 28; 1994, c. 26; 1995, c. 44; 1996, cc. 11, 14

CANADIAN HUMAN RIGHTS ACT

3. The *Canadian Human Rights Act* is amended by adding the following after section 10:

Exception

10.1 (1) Notwithstanding section 8, it is not a discriminatory practice to express a limitation, specification or preference or publish anything in the circumstances described in that section in connection with employment of a person in a position of trust involving a child where the limitation, specification, preference or publication relates to any sexual offence committed by the person against a child, whether or not the offence has been pardoned.

Exception

(2) Notwithstanding section 10, it is not a discriminatory practice to establish or pursue a policy or practice or enter into an agreement in the circumstances described in that section in connection with employment of a person in a position of trust involving a child where the policy, practice or agreement relates to any sexual offence committed by the person against a child, whether or not the offence has been pardoned.

Source: Parliament of Canada

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=2330185&File=19#1>